

Request for City Council Action

Date: July 29, 2002

To: Council Member Lisa Goodman, Community Development Committee,

Prepared by Charles Curtis, Financial Analyst, Phone 612-673-5069

Approved by Chuck Lutz, MCDA Interim Executive Director _____

Subject: A Public Hearing and Request for Preliminary and Final Approval of up to \$7,500,000 in Health Care Facilities Tax-exempt Revenue Bonds for City of Minneapolis Series 2002 for Mount Olivet Home and Mount Olivet Day Services.

Previous Directives: 1991 Original Revenue Bond of \$4,700,000 issued for facilities
1998 Advance Refunding Bond for \$4,000,000 issued for facilities.

Ward: 11 5517 Lyndale Avenue South
5601 Lyndale Avenue South
5522 Garfield Avenue South

Neighborhood Group Notification: Windom Community Council has been notified.

Consistency with *Building a City That Works*: The Project is consistent with Goal 4 of preserving and enhancing the urban institutes and amenities that define Minneapolis.

Comprehensive Plan Compliance: The Project complies with the policies of the Minneapolis Plan.

Zoning Code Compliance: Existing facilities are in compliance.

Impact on the MCDA Budget:

☐ No financial impact
☐ Action requires an appropriation increase to the MCDA Budget
☐ Action provides increased revenue for appropriation increase
☐ Action requires use of contingency or reserves
☒ Other financial impact (Explain): The issuance of tax-exempt revenue bonds will generate annual administrative fees that are used to support the small business assistance programs of the City.

Living Wage/Business Subsidy: Does not apply.

Job Linkage: Does not apply.

Affirmative Action Compliance: Mount Olivet Home and Mount Olivet Day Services
has an up to date Affirmative Action Plan on file with the City.

RECOMMENDATION:

City Council Recommendation: The Interim Executive Director recommends that the City Council adopt the attached Resolution, a summary of which will be published, following a public hearing held on July 29, 2002, notice of which was published in Finance and Commerce on July 13, 2002, giving Preliminary and Final Approval to the issuance of up to \$7,500,000 in Health Care Facilities Tax-exempt Revenue Bonds at an interest rate not to exceed 7.0% for City of Minneapolis Series 2002 for Mount Olivet Home and Mount Olivet Day Services.

It is further recommended that the Minneapolis City Council waive its Health Care Facilities Revenue Bond policies of Minimum Rating and Feasibility Study and consent to the continued suspension of the Pilot Agreement for Mount Olivet Home and Mount Olivet Day Services.

Background/Supporting Information

PROJECT LOCATION & DESCRIPTION: 5517 Lyndale Avenue South
5601 Lyndale Avenue South
5522 Garfield Avenue South
Ward 11

The applicants are Minnesota non-profit corporations providing nursing home services since 1965 and day care services for adults and children. The nursing home accommodates 94 residents in a skilled care facility.

The current financing includes the construction of an addition to the facility and substantial remodeling of the present facilities to better serve existing residents. No additional beds will be added to the nursing home.

The Project includes the refinancing of existing debt of approximately \$910,000 at reduced interest rates.

TYPE OF FINANCING:

Sources:

Bond Proceeds	\$7,500,000
Equity	75,000
Total	\$7,575,000

Uses:

Demolition	\$ 600,000
New Construction	1,100,000
Remodeling	2,600,000
Equipment	600,000
Costs of Issuance	575,000
Construction Interest	510,000

Bond Reserve	275,000
Contingencies	135,000
Refinancing Debt	1,180,000
Total	<u>\$7,575,000</u>

PRESENT EMPLOYMENT: 175

NEW EMPLOYMENT: 0

ASSESSOR'S ESTIMATED ANNUAL TAX INCREASE: Tax-exempt Facility

AFFIRMATIVE ACTION COMPLIANCE: Updated plan submitted June 2002.

MCDA IRB POLICIES:

In 1991 as the result of a joint effort by the City's Finance Office, City Assessor and MCDA, a PILOT Program (payment in lieu of taxes) was set up for the issuance of nursing home revenue bonds. The Minneapolis City Council and MCDA Board of Commissioners on March 29, 1991 adopted the following guideline for the issuance of nursing home revenue bonds: "All nursing home revenue bonds issued by the MCDA/City for a project which is not currently paying real estate property taxes should be subject to a PILOT policy as a condition of final approval on the issuance of the revenue bonds." The ability to charge a PILOT payment came from a State of Minnesota Statute in 1981. State law allows cities to collect payments from nursing homes covering the basic services of fire, police, road maintenance and sanitation.

The availability of tax-exempt revenue bond financing has allowed our Minneapolis nursing homes to make much needed improvements and to construct new nursing home facilities to meet the changing needs of our aging population. At the same time, the PILOT program recognizes the City services of police, fire and road maintenance that are provided to nursing homes, with the PILOT providing a means to reimburse the City for these services. Since 1991, the MCDA has closed on a number of nursing home projects that have all entered into a PILOT Agreement wherein the City Assessor notifies the nursing home on an annual basis the amount of the PILOT payment due the City of Minneapolis. The nursing home PILOT tax capacity rate is determined by the City Finance Office on an annual basis with the amount tied to the provision of police, fire and road maintenance. The City of Minneapolis does not include sanitation-related expenses when figuring the PILOT tax capacity rate, in that the nursing homes contract privately for sanitation services.

Since the inception of the PILOT program in 1991, eleven (11) nursing homes have entered into PILOT Agreements through the issuance of tax-exempt revenue bonds. In 1995 the State Legislature passed the Alternative Payment Demonstration Project, a program administered by the Department of Human Services as an alternative payment system to the then State's current practice of reimbursing nursing home care costs. A number of our nursing homes elected to enter into this alternative demonstration

program and therefore had their PILOT's suspended as long as they were enrolled in the alternative payment program. The suspension of the PILOTs has reduced the amount of the PILOT payments going to the City of Minneapolis.

HEALTH CARE FACILITIES REVENUE BOND POLICIES

ALL HEALTH CARE REVENUE BONDS ISSUED BY THE CITY OF MINNEAPOLIS TO BE OFFERED FOR SALE TO THE PUBLIC MUST BEAR AT LEAST A "BBB" (OR EQUIVALENT) RATING FROM AN ESTABLISHED RATING AGENCY OR BE SECURED BY A LETTER OF CREDIT OR INSURANCE FROM A FINANCIAL INSTITUTION RATED AT LEAST "BBB" (OR EQUIVALENT) SUFFICIENT AT ALL TIMES TO COVER DEBT SERVICE.

Mount Olivet Home and Mount Olivet Day Services has performed well on the payment of the 1998 Refunding Revenue Bond. The current refunding will reduce interest costs. Mount Olivet Home and Mount Olivet Day Services have an historically strong financial performance.

In addition the following security is required:

1. Debt service reserve
2. First mortgage on the facilities
3. Cross guarantee by both non-profit companies
4. Debt Service coverage currently is 1.5x

ALL APPLICATIONS FOR HEALTH CARE REVENUE BONDS MUST INCLUDE FEASIBILITY STUDY UNLESS EXCEPTED UNDER POLICY CONDITIONS.

A feasibility study was not conducted due to the nature of the project. Mount Olivet Home and Mount Olivet Day Services are not expanding in resident size, therefore, leasing is not in question. Mount Olivet Home and Mount Olivet Day Services have historically strong financial performances.

ALL NURSING HOME REVENUE BONDS ISSUED BY THE CITY OF MINNEAPOLIS FOR A PROJECT WHICH IS NOT CURRENTLY PAYING REAL ESTATE PROPERTY TAXES, SHALL BE SUBJECT TO A P.I.L.O.T. POLICY AS A CONDITION OF FINAL APPROVAL ON THE ISSUANCE OF REVENUE BONDS.

Tax-exempt facility. Mount Olivet Home and Mount Olivet Day Services are under a PILOT Agreement which is suspended due to Mount Olivet's election to be under the State's Alternative Payment Plan. While enrolled in the Alternative Payment Plan, the PILOT expenses are not a pass through expense for the nursing home.

Job Component	<p>Minimum standard of one (1) job per 1,000 square feet of building area.</p> <p><u>Mount Olivet Home & Mount Olivet Day Services:</u> Improvement to existing facility and Refunding.</p>
Property Improvements	<p>No more than 25% of the bond proceeds may be used for land and acquisition. If purchasing an existing building, an amount equal to at least 15% of the acquisition cost must be spent on rehabilitation expenditures.</p> <p><u>Mount Olivet Home & Mount Olivet Day Services:</u> In compliance.</p>
Development Standards	<p>Compliance with the Land Use Plan of the City's Comprehensive Plan.</p> <p><u>Mount Olivet Home & Mount Olivet Day Services:</u> In compliance.</p>
Equipment Financing	<p>Limited to companies that create or preserve a significant number of jobs, and the equipment financed must be sufficiently secured. No more than 10% of the bond proceeds may be used to finance movable equipment not constituting a fixture.</p> <p><u>Mount Olivet Home & Mount Olivet Day Services:</u> Preserving 175 Jobs. In compliance.</p>
Restaurant/Bank	<p>IRB financing is allowed for a restaurant or a bank if it is built or rehabilitated in an MCDA Redevelopment Area. No more than 25% of the bond proceeds can be used to finance retail food and beverage establishments, automobile dealerships or recreation or entertainment facilities.</p> <p><u>Mount Olivet Home & Mount Olivet Day Services:</u> N.A.</p>
Tax-exempt Institution	<p>Refinancing is permitted when new jobs</p>

are created or when a significant number of jobs is preserved; any interest cost savings must directly reduce patient costs.

Mount Olivet Home & Mount Olivet Day Services: Preserves 175 jobs, reduces interest rate on refunding.

IRB CAP:

The project is not subject to the volume cap, in that the project is exempt from income tax under Internal Revenue Code Section 501(c)(3) for its exempt purposes and is classified thereunder as a non-profit organization.

BOND COUNSEL:

Dorsey & Whitney

UNDERWRITER:

Miller, Johnson, Steichen, Kinnard, Inc.

COUNCIL MEMBER INFORMED:

Ward 11

MINNESOTA DEPARTMENT OF
TRADE AND ECONOMIC
DEVELOPMENT APPROVAL:

To be submitted. Closing will not occur until approval is received.

NOTE: Copies of the following bond documents are on file with the Minneapolis Community Development Agency and can be reviewed by contacting Virginia Parent, Board Coordinator (612-673-5136).

- Financing
1. Loan Agreement
 2. Trust Indenture
 3. Bond Purchase Agreement
 4. Combination Mortgage, Security Agreement and Fixture Statement and Assignment of Leases and Rents.

Resolution

AUTHORIZING AND PROVIDING FOR THE
ISSUANCE AND SALE OF HEALTH CARE FACILITIES
REVENUE BONDS PURSUANT TO MINNESOTA STATUTES, SECTIONS 469.152
TO 469.1651, AS AMENDED, AT THE REQUEST OF MOUNT OLIVET HOME AND
MOUNT OLIVET DAY SERVICES, AND APPROVING THE FORMS OF REQUIRED
DOCUMENTS IN CONNECTION THEREWITH

BE IT RESOLVED by the City Council of the City of Minneapolis, Minnesota (the "City" or the "Issuer"), as follows:

1. Authority.Pursuant to Minnesota Statutes, Sections 469.152 to 469.1651, as amended (the "Act"), the Issuer is authorized to issue revenue bonds or notes and sell such bonds or notes at public or private sale as may be determined by this body to be most advantageous; and to loan the proceeds of its revenue bonds or notes for the purpose of financing or refinancing permitted costs of authorized projects, all as further provided in the Act, or to refund bonds or notes issued under the Act. Such revenue bonds or notes may be secured by a pledge of the revenues to be derived by the Issuer from a loan agreement with the borrower, and by such other security devices as may be deemed advantageous. Under the provisions of the Act, any bonds or notes so issued by the Issuer shall be special, limited obligations of the Issuer, and shall not constitute an indebtedness of the Issuer, within the meaning of any state constitutional provision or statutory limitation, nor give rise to a pecuniary liability of the Issuer or a charge against its general credit or taxing powers.

2. The Bonds and the Project.Mount Olivet Home and Mount Olivet Day Services, each a Minnesota nonprofit corporation (together referred to as the "Borrower") have proposed to undertake a project consisting of the acquisition and construction of improvements and the refinancing of outstanding indebtedness with respect to existing nursing home and day services facilities located at 5517 Lyndale Avenue South, 5601 Lyndale Avenue South, and 5522 Garfield Avenue South in the City of Minneapolis, together with the acquisition and installation of equipment and furnishings (herein referred to as the "Project"), and has further proposed that the Issuer issue and sell its Health Care Facilities Revenue Bonds, in one or more series, in an aggregate principal amount of not to exceed \$7,500,000, substantially in such forms and subject to the terms and conditions as are set forth in the Indenture referred to below (the "Bonds"), pursuant to the Act, and loan the proceeds thereof to the Borrower to finance the Project.

3. Public Hearing.Following not less than 14 nor more than 30 days' published notice in the official newspaper and a newspaper of general circulation in the City, the Community Development Committee of the City Council conducted a public hearing

with respect to the Project and the issuance of the Bonds. All persons present had an opportunity to express their views with respect to the Project and the issuance of the Bonds. Based on the information presented, the Issuer hereby finds and determines that the undertaking of the Project and the issuance of the Bonds are in the public interest and will promote the purposes of the Act.

4. Application to Department of Trade and Economic Development; Approval of Project. The Project is hereby approved by the Issuer, subject only to the approval thereof by the Commissioner of Trade and Economic Development of the State of Minnesota, as required by the Act. The Mayor, the City Clerk and other officers of the Issuer are authorized to take such action as may be required to obtain the approval of the Commissioner of the Department of Trade and Economic Development of the Project, as required by the Act. All costs of the Issuer relating to the issuance of the revenue bonds, whether or not successfully issued, shall be paid or reimbursed by the Borrower.

5. Documents Presented. Forms of the following documents relating to the Bonds and the Project have been submitted to the Issuer and are now on file in the offices of the Issuer:

a. Loan Agreement (the "Loan Agreement") between the Issuer and the Borrower; and

b. Trust Indenture (the "Indenture") of even date with the Loan Agreement, between the Issuer and U.S. Bank National Association, as trustee (the "Trustee"); and

c. Combination Mortgage, Security Agreement and Fixture Financing Statement and Assignment of Leases and Rents (the "Mortgage") of even date with the Loan Agreement, from the Borrower to the Trustee; and

d. Continuing Disclosure Agreement (the "Continuing Disclosure Agreement") of even date with the Loan Agreement, between the Borrower and the Trustee;

e. Bond Purchase Agreement (the "Bond Purchase Agreement"), by and between Miller Johnson Steichen Kinnard, Inc. (the "Underwriter"), the Borrower and the Issuer; and

f. Preliminary Official Statement and form of final Official Statement, the form of the Preliminary Official Statement, together with the insertion of the final underwriting details of the Bonds, including the interest rates thereon, and any other changes deemed necessary or desirable, intended to constitute the form of the final Official Statement, and including all Appendices thereto (together the "Official Statement"), describing the offering of the Bonds, and certain terms and provisions of the foregoing documents.

6. Findings. It is hereby found, determined and declared that:

a. The Project will further the purposes contemplated and described in Section 469.152 of the Act and, based upon information supplied by the Borrower, would result in the encouragement and development of economically sound industry and commerce through governmental action for the purpose of preventing the emergence of blighted and marginal lands and areas of chronic unemployment, and would enhance the provision of health care services and facilities to members of the community.

b. There is no litigation pending or, to the knowledge of the Issuer, without investigation or inquiry, threatened against the Issuer relating to the Project or to the Bonds, or to the Loan Agreement, the Indenture, the Bond Purchase Agreement, the Continuing Disclosure Agreement, or the Mortgage (collectively referred to as the "Bond Documents") or questioning the organization, powers or authority of the Issuer to issue the Bonds or execute such agreements.

c. To the knowledge of the Issuer, without investigation or inquiry, the execution and delivery of and the performance of the Issuer's obligations under the Bonds and the Bond Documents do not and will not violate any order of any court or any agency of government of which the Issuer is aware or in any proceeding to which the Issuer is a party, or any indenture, agreement or other instrument to which the Issuer is a party or by which it or any of its property is bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any such indenture, agreement or other instrument.

d. The Loan Agreement provides for payments by the Borrower to the Issuer, of such amounts as will be sufficient to pay the principal of, premium, if any, and interest on the Bonds when due.

e. Under the provisions of the Act and as provided in the Loan Agreement, the Bonds are not and shall not be payable from or charged upon any funds other than amounts payable pursuant to the Loan Agreement and related documents; the Issuer is not subject to any liability thereon; no owner of the Bonds shall ever have the right to compel the exercise of the taxing power of the Issuer to pay the Bonds or the interest thereon, nor to enforce payment thereof against any property of the Issuer; neither the Bonds nor any document executed or approved in connection with the issuance thereof shall constitute a pecuniary liability, general or moral obligation, charge, lien or encumbrance, legal or equitable, upon any property of the Issuer; and the Bonds shall not constitute or give rise to a charge against the general credit or taxing powers of the Issuer.

7. Approval and Execution of Documents. The forms of Loan Agreement, Indenture, Bond Purchase Agreement, Continuing Disclosure Agreement, and Mortgage, referred to in paragraph 5, are approved. The Loan Agreement, Indenture, and Bond Purchase Agreement shall be executed in the name and on behalf of the Issuer by the officers identified in paragraph 11, in substantially the forms on file, but with all such changes therein as may be approved by the officers executing the same, which approval shall be conclusively evidenced by the execution thereof.

8. Approval, Execution and Delivery of the Bonds. The officers of the Issuer are hereby authorized and directed to execute and issue the Bonds, and the Bonds shall be issued in such series and shall be substantially in such forms, mature, bear interest, and be payable according to such terms and shall otherwise contain such terms and provisions as are set forth in the Indenture, which terms are for this purpose incorporated in this resolution and made a part hereof; provided, however, that the aggregate principal amount of each series of the Bonds, the interest rates thereon, the amount and dates of the principal payments required to be made with respect thereto, and the rights of optional and mandatory redemption with respect thereto shall all be set forth in the Indenture as executed and shall all be subject to the final approval of the officers of the Issuer who execute and deliver the Indenture in accordance with the provisions of this resolution, such approval to be conclusively evidenced by the execution thereof; provided further, however, that, in no event shall the aggregate principal amount of the Bonds exceed \$7,500,000, shall the final maturity of the Bonds be in excess of 30 years from the date of issuance thereof, or shall the net interest cost with respect to the Bonds exceed 7.00% per annum. The Bonds shall recite that they are issued pursuant to the Act and such recital shall, to the fullest extent permitted by law, conclusively establish the legality and validity thereof.

The Bonds shall be sold to the Underwriter in accordance with and upon the terms and conditions set forth in the Bond Purchase Agreement. The proposal of the Underwriter to purchase the Bonds as provided in the Bond Purchase Agreement at the purchase price set forth therein is hereby accepted.

9. Certificates, etc. The officers of the Issuer are authorized to prepare and furnish to Dorsey & Whitney LLP, Minneapolis, Minnesota, as Bond Counsel to the Underwriter, and to the Underwriter, certified copies of all proceedings and records of the Issuer relating to the Bonds, and such other affidavits and certificates as may be required to show the facts appearing from the books and records in the officers' custody and control or as otherwise known to them; and all such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute representations of the Issuer as to the truth of all statements of fact contained therein.

10. Official Statement. The Issuer hereby consents to the circulation by the Underwriter of the Official Statement in offering the Bonds for sale; provided, however, that the Issuer has not participated in the preparation of the Official Statement or independently verified the information in the Official Statement and takes no responsibility for, and makes no representations or warranties as to, the accuracy or completeness of such information.

11. Nature of Issuer's Obligation. All covenants, stipulations, obligations, representations, and agreements of the Issuer contained in this Resolution or contained in the aforementioned documents shall be deemed to be the covenants, stipulations, obligations, representations, and agreements of the Issuer to the full extent authorized or permitted by law, and all such covenants, stipulations, obligations, representations, and agreements shall be binding upon the Issuer. Except as otherwise provided in this Resolution, all rights, powers, and privileges conferred, and duties and liabilities imposed upon the Issuer by the provisions of this Resolution or of the aforementioned documents shall be exercised or performed by such officers or agents as may be required or authorized by law to exercise such powers and to perform such duties. No covenant, stipulation, obligation, representation, or agreement herein contained or contained in the documents referred to above shall be deemed to be a covenant, stipulation, obligation, representation, or agreement of any City Council Member, officer, agent, or employee of the Issuer in that person's individual capacity, and neither any member of the City Council nor any officer or employee executing the Bonds or such documents shall be liable personally on the Bonds or be subject to any representation, personal liability or accountability by reason of the issuance thereof. No provision, representation, covenant or agreement contained in the Bonds, this Resolution or in any other document related to the Bonds, and no obligation therein or herein imposed upon the Issuer or the breach thereof, shall constitute or give rise to a general or moral obligation, or indebtedness or pecuniary liability of the Issuer or any charge upon its general credit or taxing powers. In making the agreements, provisions, covenants and representations set forth in the Bonds or in any other document related to the Bonds, the Issuer has not obligated to pay or remit any funds or revenues, except for revenues derived from the Loan Agreement that are pledged to the payment of the Bonds.

12. Authorized Officers. The Bonds and the documents referred to herein are authorized to be executed on behalf of the Issuer by its Mayor, Finance Director and City Clerk; provided, however, that in the event that any of those officers shall be unavailable or for any reason be unable to execute the Bonds or any other document to be entered into by the Issuer in connection therewith, any other officer of the Issuer, acting alone or with one or more other officers, is hereby directed and authorized to do so on behalf of the Issuer.

13. Governmental Program Bonds. The Bonds are hereby designated "Program Bonds" and are determined to be within the "Health Care Program" and the "Program", all as defined in Resolution 88R-021 of the Issuer adopted January 29, 1988, and as amended by Resolution 97R-402 of the Issuer adopted December 12, 1997.

Definitions and Interpretation. Terms not otherwise defined in this Resolution but defined in the Loan Agreement or the Indenture shall have the same meanings in this Resolution and shall be interpreted herein as provided therein. Notices may be given as provided in the Loan Agreement. In case any provision of this Resolution is for any reason illegal or invalid or inoperable, such illegality or invalidity or inoperability shall not affect the remaining provisions of this Resolution, which shall be construed or enforced as if such illegal or invalid or inoperable provision were not contained herein.